

BOURNEMOUTH, CHRISTCHURCH AND POOLE COUNCIL
LICENSING SUB-COMMITTEE

Minutes of the Meeting held on 29 September 2022 at 10.00 am

Present:-

Cllr J J Butt – Chair

Present: Cllr S C Anderson and Cllr L Williams

69. Election of Chair

RESOLVED that Councillor Judes Butt be elected Chair of the Sub-Committee for the duration of the meeting.

Voting: Unanimous

70. Apologies

Apologies were received from Sub Committee member, Cllr D Brown, and reserve member, Cllr R Burton.

The Chair thanked Cllr L Williams for stepping up as member of the sub committee for this meeting. She also thanked Cllr D Kelsey for stepping up as a reserve member to attend at the start of the meeting in case his attendance had been required.

71. Declarations of Interests

There were no declarations of interest.

72. Application for Review of Premises Licence at Bargain Convenience Store, 495 Wimborne Road, Bournemouth, BH9 2AW

Present:

From BCP Council:

Tania Jardim– Licensing Officer

Linda Cole – Legal Advisor to the Sub-Committee

Jill Holyoake – Clerk to the Sub-Committee

The Chair made introductions and explained the procedure for the hearing which was agreed by all parties.

The Licensing Officer presented a report, a copy of which had been circulated and a copy of which appears as Appendix A to these minutes in the Minute Book.

The Licensing Officer corrected a typographical error in paragraph 3 of the report regarding the date the premises was issued with a premises licence which should read 16 January 2007.

The Sub Committee was asked to consider an application for a review of the premises licence for the premises known as Bargain Convenience Store, 495 Wimborne Road, Bournemouth BH9 2AW, submitted by Dorset Police on 15 August 2022, on the grounds that the premises was not upholding the prevention of crime and disorder licensing objective.

One representation in support of the review from one 'other person' had been received during the consultation period. Following the submission of a survey and recommendations in relation to the premises' operation, undertaken by Mr David Ramsay, under instruction from the premises licence holder, Dorset Police had confirmed that it maintains its original position.

The following persons attended the hearing and addressed the Sub-Committee to expand on the points made in written submissions:

Louise Busfield – Dorset Police Licensing Team

Mr David Ramsay - Legal representative for the current Premises Licence Holder

Mr Ali Zmnako – Premises Licence Holder

The Sub Committee asked various questions of all parties present and were grateful for the responses received. All parties had the opportunity to ask questions. All parties were invited to sum up before the Sub-Committee retired to make its decision. Before concluding the hearing, the Legal Advisor advised all parties of the right of appeal.

RESOLVED that having considered the application to review the premises licence for Bargain Convenience Store, 495 Wimborne Road, Bournemouth BH9 2AW, the Sub Committee has decided to revoke the premises licence on the grounds that the premises are not upholding the prevention of crime and disorder Licensing Objective.

Reason for Decision

The Sub-Committee gave detailed consideration to all of the information which had been submitted before the hearing and contained in the report and appendices for Agenda Item 5, in particular the written evidence provided by Dorset Police in support of the application for review and the verbal submissions made at the hearing by Ms Louise Busfield on behalf of Dorset Police Licensing, by Mr David Ramsay, licensing representative for Mr Ali Zmnako, the Premises Licence Holder, and by Mr Zmnako himself and the responses given to all questions asked at the hearing.

In determining the review, the Sub Committee considered the options available as set out in the recommendations of the report and the Licensing Act 2003. The Sub Committee shared the view of Dorset Police that none

of the other available options would address the reasons for the review and that these options would not be appropriate in upholding the Licensing Objectives, as follows:

Modification/addition of conditions of the premises licence:

While it was noted that Mr Ramsay had proposed replacement conditions as a result of his survey of the premises' operation in order to rectify most of the shortcomings and acknowledged breaches of current conditions, the Sub Committee did not consider that there were any conditions which could address the concerns raised regarding the storage and sale of illicit tobacco on the premises.

Exclusion of a licensable activity from the scope of the licence:

The Sub Committee noted that the exclusion of one or more licensable activities was not applicable in this case as it would not address the concerns raised in the review.

The removal of the Designated Premises Supervisor from the licence:

The Sub Committee noted the intention to change the DPS from Mr Zmnako to his wife. The Sub Committee did not consider that the removal of Mr Zmnako as DPS would resolve the concerns caused by his direct involvement in the sale and storage of smuggled tobacco, as his association with the premises would remain, due to him being the owner of the premises and Premises Licence Holder. The Sub Committee were advised that his wife already works in the Shop and therefore would have been aware of these criminal activities taking place on the premises. This proposed change of DPS gave them no confidence that the premises would be run responsibly.

Suspension of the Licence:

The Sub Committee was not satisfied that suspending the licence would address concerns or promote the Licensing Objectives as it did not change those responsible for the management of the premises and the criminal activity that took place at the premises.

Leave the licence in its current state.

The Sub Committee did not consider this to be a viable option due to the serious nature of the activities taking place on the premises.

The Sub Committee had no confidence or trust in the current management of the premises and did not believe the incident on 12 July 2022 to be a one-off incident. The visit to the premises by Dorset Police, Trading Standards and HMRC on 12 July 2022 was part of an intelligence led operation where prior intelligence of illegal activity had been received. It was noted that Mr Zmnako had already been issued with a written warning

by the Licensing Office in July 2018 regarding selling alcohol and cigarettes to underage persons and alleged sale of non-duty cigarettes (a letter which Mr Zmnako stated at the hearing he had not received). At the time of the visit on 12 July 2022 Mr Zmnako reported that he was unable to identify whom he had bought the illegal products from, only stating there were always Polish or Romanians asking if he wanted to buy tobacco, yet at the hearing it was stated that Mr Zmnako had accepted the products as part payment for an outstanding debt.

In making its decision, the Sub Committee took particular account of paragraphs 11.27 and 11.28 of the Guidance issued under section 182 of the Licensing Act 2003 and agreed that revocation of the premises licence was the only effective action that could be taken given the particularly serious nature of the criminal activity, in order to deter such activity and crime and to promote the licensing objectives and to protect the public from consuming a potentially unsafe product.

Right of appeal

An appeal against the review decision may be made to a Magistrates Court within 21 days of the appellant being notified of the Licensing Authority's determination on the review. An appeal may be made by the premises licence holder, the Chief Officer of Police and/or any interested person who made relevant representations.

Voting: Unanimous

73. **Exclusion of Press and Public**

RESOLVED that under Section 100 (A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraphs 1 and 2 in Part I of Schedule 12A of the Act and that the public interest in withholding the information outweighs such interest in disclosing the information.

74. **Consideration of suitability of Public Carriage Driver**

This item was restricted by virtue of paragraphs 1 and 2 of Schedule 12A of the Local Government Act 1972.

Exempt information – Categories 1 (information relating to any individual) and 2 (information which is likely to reveal the identity of an individual).

Attendance:

From BCP Council:

Ellie King and Trudi Barlow – Licensing Officers
Linda Cole – Legal Advisor to the Sub-Committee
Jill Holyoake – Clerk to the Sub-Committee

The Driver was also in attendance, accompanied by a member of BCP Taxi and Private Hire Association in a non-participatory role.

The Chair made introductions and explained the procedure to be followed in considering this item, which was agreed by all participating parties.

The Licensing Officer presented a report, a copy of which had been circulated to each Member and a copy of which appears as Appendix 'B' to these Minutes in the Minute Book.

The Sub Committee was asked to consider whether the driver remained a 'fit and proper' person to hold a Hackney Carriage and Private Hire Driver's licence. The driver addressed the Sub Committee to present his case.

The Sub-Committee asked various questions of all parties present and was grateful for the responses received.

All parties were invited to sum up before the Sub-Committee retired to make its decision. Before concluding the Hearing, the Legal Advisor advised all parties of the right of appeal.

RESOLVED that having considered the written report of the Licensing Officer and the supporting information provided by the driver and the verbal submissions and responses to questions provided at the hearing by all parties and having regard to the BCP Hackney Carriage and Private Hire Driver Policy and the relevant guidance documents issued by the Institute of Licensing (IOL) and the Department of Transport, the Sub-Committee has decided that the driver remains a 'fit and proper' person to hold a Hackney Carriage and Private Hire Drivers Licence.

Reason for Decision:

In making its decision, the Sub-Committee considered all the information presented and listened to the answers the driver provided to the questions members asked.

Having considered and noted all the circumstances of the case, as detailed in the exempt version of these minutes, on balance the Sub Committee finds the driver to be a fit and proper person. The Sub-Committee is happy to give the driver a fresh start and hopes that he uses it wisely

Voting – Unanimous

The meeting ended at 1.00 pm

CHAIR

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